

Message Text

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ORIGIN L-03

INFO OCT-01 ISO-00 EB-08 CAB-02 CIAE-00 COME-00
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APPROVED BY:EB/TRA:JRATWOOD
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INFO DOT WASH DC

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ATTN MIKE STYLES

CORRECTED CY (PARA 1, LINE 1 OMITTED)

E.O. 11652: N/A

TAGS: EAIR, JA

SUBJECT: CIVAIR: AIRPORT ISSUES
DOT PASS L. KAMM

1. SUMMARY: DEPARTMENT DOES NOT VIEW GOJ ISSUANCE OF
IMPORT WAREHOUSE LICENSE TO JALTOS AND DENIAL THEREOF TO FTL
AS VIOLATION OF TREATY OF FRIENDSHIP, COMMERCE AND NAVIGA-
TION BETWEEN THE UNITED STATES OF AMERICA AND JAPAN
(TIAS 2863). END SUMMARY.

2. ARTICLE VII OF THE FCN TREATY RESERVES EACH PARTY'S
RIGHT TO LIMIT THE EXTENT TO WHICH ALIENS MAY CARRY ON AIR
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TRANSPORT ENTERPRISES IN ITS TERRITORY. THAT ARTICLE FURTHER
PROVIDES THAT NEITHER PARTY SHALL DENY TO TRANSPORTATION
COMPANIES OF THE OTHER PARTY "THE RIGHT TO MAINTAIN BRANC;ES
AND AGENCIES TO PERFORM FUNCTIONS NECESSARY FOR ESSENTIAL-
LY INTERNATIONAL OPERATIONS IN WHICH THEY ARE PERMITTED TO
ENGAGE." ISSUANCE OF AN IMPORT WAREHOUSE LICENSE TO FTL
(OR OTHER US AIRLINE) IS NOT STRICTLY NECESSARY TO THE

PERFORMANCE OF AIR TRANSPORTATION SERVICES BETWEEN THE US
AND JAPAN.

3. ARTICLE XVII OF THE FCN TREATY REQUIRES EACH PARTY TO
ACCORD "FAIR AND EQUITABLE TREATMENT, AS COMPARED WITH THAT
ACCORDED TO...ANY THIRD COUNTRY," WITH RESPECT TO THE AWARD
OF CONCESSIONS AND OTHER GOVERNMENT CONTRACTS, AND THE SALE
OF SERVICES SOLD BY THE GOVERNMENT OR BY ANY MONOPOLY OR
AGENCY GRANTED EXCLUSIVE OR SPECIAL PRIVILEGES. AN IMPORT
WAREHOUSE LICENSE SEEMS TO BE SUCH A CONCESSION OR SPECIAL
PRIVILEGE GRANTED TO JALTOS. ALTHOUGH ARTICLE XVII MAY BE
VIOLATED IF AN IMPORT WAREHOUSE LICENSE WERE GRANTED TO
AN AIRLINE OF A THIRD PARTY, ITS ISSUANCE TO JALTOS DOES
NOT CONSTITUTE A VIOLATION.

4. ARTICLE XX ESTABLISHES FREEDOM OF TRANSIT THROUGH THE
TERRITORIES OF EACH PARTY, WITH FREEDOM FROM UNNECESSARY
DELAYS AND RESTRICTIONS. HOWEVER, ISSUANCE OF THE PERTI-
NENT LICENSE TO JALTOS AND NOT TO FTL DOES NOT NECESSARILY
CAUSE SUCH DELAYS OR RESTRICTIONS.

5. FYI: WITH REGARD TO THE PENDING PART 213 ACTION
AGAINST JAL, THE BOARD HAS TAKEN THE POSITION THAT IMPE-
LEMENTATION OF A PART 213 ACTION IN ACCORDANCE WITH JAL'S
FOREIGN AIR CARRIER PERMIT DOES NOT VIOLATE THE FCN BETWEEN
THE US AND JAPAN. VANCE
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NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
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